

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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Kenneth S. Daywitt, et al.,

Plaintiffs,

vs.

ORDER ADOPTING
REPORT AND RECOMMENDATION

State of Minnesota, et al.,

Defendants.

Civ. No. 14-4526 (MJD/LIB)

* * * * *

Based upon the Report and Recommendation of United States Magistrate Judge Leo I. Brisbois, and after an independent review of the files, records and proceedings in the above-titled matter, **IT IS ORDERED:**

1. That Defendants' Motion to Dismiss First Amended Complaint, [Docket No. 36], is **DENIED** with respect to Count 2's Section 1983 free exercise claim as alleged against Defendants Jesson, Johnston, and Moser in their official capacities, to the extent Plaintiffs seek injunctive and/or declaratory relief arising from Policy 303.020's suit coat prohibition.

2. That Defendants' Motion to Dismiss First Amended Complaint, [Docket No. 36], is **DENIED** with respect to Count 4 as alleged against the State entity Defendants and the individual Defendants in their official capacities, to the extent Plaintiffs seek injunctive and/or declaratory relief arising from Policy 303.020's suit coat prohibition.

3. That Defendants' Motion to Dismiss First Amended Complaint, [Docket No. 36], is
GRANTED in all other respects.

DATED: July 6, 2015
At Minneapolis, Minnesota

s/Michael J. Davis
Michael J. Davis
United States District Court